

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant: Wheatberry LLC (c/o Adrie and Ben Lester)
325 Amherst Road, Pelham, MA 01002

Date Application filed with the Town Clerk: April 6, 2007

Nature of request: Petitioner seeks a Special Permit, under Section 9.22 of the Zoning Bylaw, to operate a bakery/café.

Location of property: 319-321 Main Street, Map 14B, Parcel 28, R-G zone.

Legal notice: Published in the Daily Hampshire Gazette on April 11 and April 18, 2007, and sent to abutters on April 10, 2007.

Board members: Ted Rising, Russ Frank and Jane Ashby

Submissions: The applicants submitted the following documents:

- A photograph of the front of the building with a picture of the proposed sign superimposed over the middle door;
- A color detail of the sign design;
- A Proposed Floor Plan prepared by the applicants, undated, showing the proposed interior layout;
- A Revised Floor Plan prepared by Ford-Gillen Architects, dated 4/23/07, showing the proposed interior layout;
- A Management Plan for Wheatberry LLC, undated;
- A Management Plan for 321 Main Street, prepared by Kamins Real Estate, undated, approved by the Zoning Board of Appeals for an earlier application on 7/25/05;
- A Proposed Menu for Wheatberry LLC, undated;
- A Site Plan, prepared by Ford-Gillen Architects, approved by the Zoning Board of Appeals for an earlier application on 9/5/06;
- Photographs of counter stools proposed for use in the café.

Town staff submitted the following documents:

- Memorandum from the Planning Department, dated April 19, 2007, commenting on the application;
- A copy of the previous Special Permit granted to the applicants for another space in the same building, ZBA FY2007-00004.

Site Visit: April 24, 2007

At the site visit the Board was met by the applicants, Adrie and Ben Lester. The Board observed the following:

- The building is located in the Dickinson National Historic Register District, on a busy street, across from the Dickinson Museum;
- The building is surrounded by single-family and multi-family residential buildings and some commercial uses;

- The building currently houses a hair dressing salon, a grocery store, a small home-furnishings and interior design establishment and a travel agency;
- The building is surrounded on three sides by a paved parking lot;
- Both the building and the parking lot are screened by vegetation from adjacent residential properties;
- The interior of the space, formerly used for Moving Zen Karate, is large and partially finished;
- The existing bathroom which appears to be small in size;
- The location of the proposed doorway that will be installed in the front of the store for deliveries;
- The proposed layout of the new bakery, café.

Public Hearing: April 26, 2007

At the public hearing Adrie and Ben Lester presented the petition. They made the following comments:

- The Lesters currently own a wholesale bakery business, operating out of an address in Pelham;
- They wish to open a bakery/café;
- They gave a list of their current wholesale customers;
- They wish to have a commercial kitchen and a small café area;
- They had received a Special Permit to operate a bakery/café in the same building in another space.

Ms. Ashby asked if the new establishment would be required to have a public bathroom. Bonnie Weeks, Building Commissioner, stated that for a small retail establishment with an occupant load of less than 50, they would not be required to have a public bathroom.

Christine Brestrup of the Planning Department asked about exterior lighting. She stated that there may be a problem with the existing lights that are proposed to illuminate the sign. The middle light shines down on the building façade but the lights on either side shine out towards the street and are a problem for motorists passing by.

Mr. Lester stated that the lights can be adjusted to face in to the building and away from the street. He noted that it may be possible to put a cover around the existing lights to keep them from shining into the street, or they could be replaced with new lights that will shine down.

Mr. Lester described his plan to install a 4-foot wide delivery door within the existing garage door. He stated that the whole garage door will stay and that the look of the façade will not change. The new door will be set into the large garage door.

Mr. Rising asked if there were any questions about signs. Bonnie Weeks, Building Commissioner, asked if the proposed sign was uniform in height with the other signs installed on the building. Mr. Lester stated that the sign was similar in size to the other signs.

Mr. Frank asked about deliveries. Ms. Lester stated that deliveries will be during regular business hours. The delivery truck can pull into the parking lot.

Ms. Ashby asked about the material of the proposed sign. Ms. Lester stated that it will be made out of bread dough on wood, with a coating that will make it weather resistant.

Jeffrey Krauth of 487 Audubon Road, Leeds, owner of Elements Hot Tub Spa at 365-377 Main Street, stated that he thought that the bakery/café would be a great addition to Main Street.

Cheryl Domian of 86 Kellogg Avenue, stated that she is acquainted with Ms. Lester and that the bakery/cafe will be good for the town.

Mr. Frank MOVED to close the evidentiary portion of the public hearing. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

The Board developed a list of conditions under which they would be able to approve the application.

Public Meeting – Findings:

Under Zoning Bylaw Section 9.22 the Board found that the proposed use as a bakery/café will not be substantially different in character or in its effect on the neighborhood than the previously-existing non-conforming use.

Under Zoning Bylaw Section 10.38 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other businesses in the building and in the surrounding neighborhood and the building has historically been used for commercial and retail uses.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because there will be no frying while preparing food, smells emanating from the building will be limited to the smell of baking bread and pastries and coffee being brewed, the delivery of goods to the site will be limited to normal business hours, exterior lights will be downcast, the sign is well-designed and there will be no music or loud noises emanating from the building.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there is ample parking for customers, one of the conditions of the permit requires that the parking spaces be clearly demarcated on the pavement, there will be no change in the way pedestrians move through or past the site, the applicants will request that the manager of the building install a sign to prevent parking in front of the bakery and there is a condition requiring that wheel stops be added to the west parking lot to prevent vehicles from driving too close to the building.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the parking lot is adequately sized and the interior space is large enough to accommodate the planned use.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because there is adequate parking on the site to accommodate the proposed use and the sign will be built and installed according to the details approved by the Board.

10.388 - The proposal ensures adequate space for the off-street loading and unloading of vehicles because there is room in the parking lot on the west side of the site for delivery vehicles to park during unloading.

10.389 - The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the building is connected with the town sewer and there is a dumpster that is shared by tenants at the rear of the property.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because all exterior lighting will be downcast.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw for the reasons enumerated above.

Public Meeting – Zoning Board Decision

Ms. Ashby MOVED to grant the application with the conditions as drafted in the public meeting. Mr. Frank SECONDED the motion. The Board VOTED unanimously to grant the application with conditions.

Mr. Frank MOVED to accept the conditions as drafted and to adopt the findings that were approved for the previous permit as the findings for this permit. Mr. Rising SECONDED the motion. The Board VOTED unanimously to accept the conditions and the findings.

For all the reasons stated above the Board VOTED unanimously to grant a Special Permit with conditions, under Section 9.22 of the Zoning Bylaw, to operate a bakery/café, as applied for by Adrie and Ben Lester, at 319-321 Main Street, (Map 14B, Parcel 28, R-G zone).

EDWARD RISING

RUSSELL FRANK

JANE ASHBY

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.

NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, under Section 9.22 of the Zoning Bylaw, to operate a bakery/café, as applied for by Adrie and Ben Lester, at 319-321 Main Street, (Map 14B, Parcel 28, R-G zone) with the following conditions:

1. The project shall be built in accordance with the plans approved by the Board on April 26, 2007.
2. The bakery/café shall be managed in accordance with the Management Plan, as revised, approved by the Board on April 26, 2007.
3. The hours of operation shall be as follows:

Retail hours:	Sunday through Thursday	6:30 a.m. to 7:00 p.m.
	Friday through Saturday	6:30 a.m. to 9:00 p.m.
Bakery hours	Monday through Sunday	3 a.m. to 4 p.m.
4. The maximum number of employees on site at one time shall be 6.
5. Deliveries to the site by distributors shall be as stated in the Management Plan, as revised, approved by the Board on April 26, 2007.
6. Permanent wheel stops shall be installed in the front of the building in order to maintain a four-foot buffer between the parking lot and the building.
7. The main sign over the front door shall be built and installed substantially in accordance with the computer-generated image and text regarding the sign design, and in accordance with the Management Plan, approved by the Board on April 26, 2007. If substantial changes to the approved sign are proposed, the new sign information shall be submitted for review and approval by the Board at a public meeting.
8. The applicants may install landscape elements such as flower containers and trash receptacles adjacent to the building if they choose to do so. Any landscape elements so installed shall be maintained.
9. Upon change of ownership or management the new owner or manager shall submit a Management Plan to the Board for approval at a public meeting.
10. Outdoor lighting shall be directed towards the sign or downcast and shall be shielded from the adjacent street. If the existing lighting proves unsatisfactory, gooseneck lighting (a maximum of four fixtures) shall be substituted and shall be downcast and shielded and focused on the sign, to ensure that no direct light or reflected glare is visible to drivers on the adjacent streets.

EDWARD RISING, Chair
Amherst Zoning Board of Appeals

DATE